



"Brooks, Patrick J."  
<PBrooks@ssd.com>  
06/08/2006 03:31 PM

To "Brooks, Patrick J." <PBrooks@ssd.com>, Jonathan Pierce  
<piercejc@michigan.gov>, "James L. Morgan"  
<JMorgan@atg.state.il.us>, Betsey Streuli  
cc Catherine Garypie/R5/USEPA/US@EPA, Brian Monroe  
<MONROEB@michigan.gov>, Robert Reichel  
<ReichelB@michigan.gov>, LPutman@milbank.com,  
bcc

EPA Region 5 Records Ctr.



366975

Subject RE: Custodial Trust Agreement

How is 1 EDT as an alternative to 11 EDT?

**From:** Brooks, Patrick J.  
**Sent:** Thursday, June 08, 2006 3:02 PM  
**To:** 'Jonathan Pierce'; James L. Morgan; Betsey Streuli; ebessey@kdhe.state.ks.us  
**Cc:** Garypie.Catherine@epamail.epa.gov; Brian Monroe; Robert Reichel;  
LPutman@milbank.com; TKreller@milbank.com; Winters, Karen; Lerner, Stephen D.;  
cgibbons@szd.com; Alan.Tenenbaum@usdoj.gov  
**Subject:** RE: Custodial Trust Agreement

I suggest we plan on having a conference call tomorrow to discuss any comments the States may have to the CTA. Does 11 EDT work for the primary representative of each State?

Patrick

**From:** Jonathan Pierce [mailto:piercejc@michigan.gov]  
**Sent:** Thursday, June 08, 2006 2:53 PM  
**To:** James L. Morgan; Betsey Streuli; ebessey@kdhe.state.ks.us; Brooks, Patrick J.  
**Cc:** Garypie.Catherine@epamail.epa.gov; Brian Monroe; Robert Reichel;  
LPutman@milbank.com; TKreller@milbank.com; Winters, Karen; Lerner, Stephen D.;  
cgibbons@szd.com; Alan.Tenenbaum@usdoj.gov  
**Subject:** Re: Custodial Trust Agreement

Patrick,

Thanks for providing the draft custodial trust agreement. I've preliminarily reviewed it with MDEQ and will be forwarding our comments regarding its form and substantive provisions as soon as I can. I understand that you wish to present it without objection to the court sometime Monday, but please keep in mind that we didn't see the latest version until first thing this morning.

Call or e-mail if you have any questions.

Jonathan Pierce

>>> "Brooks, Patrick J." <PBrooks@ssd.com> 6/7/2006 10:20:57 PM >>>

Attached is a revised version of the Custodial Trust Agreement. I am sending a clean version only because the document has been extensively negotiated by the DOJ, William West's counsel, the Debtors and the Committee resulting in numerous changes. Thus, we encourage you to read it fresh from start to finish.

The Debtors think it is a well balanced document for all parties concerned and hope you will find it agreeable. Significant hours went into the recent edits, so I would hazard to guess that I can speak for DOJ, Mr. West and his counsel, the Debtors and the Committee in requesting that you focus on material issues, if any, in providing comments. The Debtors would like to focus all their efforts going forward on finalizing the settlement agreements with the States.

We would appreciate it if you could acknowledge by COB tomorrow that you have no objections to the form of agreement, or provide any comments that you may have. We appreciate your prompt attention to this matter. We would like to file a notice on Monday indicating that there are no objections to (i) the form of agreement, (ii) Mr. West serving as Custodial Trustee, and the (iii) Funding of the Administration Custodial Trust Account, which was increased by \$200,000 and, you'll see in the revised document, a mechanism was added to allow the Custodial Trustee to retain up to 15% of Residual Interests to apply towards administrative costs of the Custodial Trust under certain circumstances. The Debtors agreed to these changes because the initial calculations did not provide for payment of real property taxes and certain minimal maintenance costs not constituting Environmental Costs. Further, the EPA believed that the number of hours the Debtors estimated that would be required of the Custodial Trustee were too low. While the Debtors disagree with the EPA's estimated hours, the 15% provision was added as an accommodation in an effort to alleviate any concerns over the adequacy of the administrative funding.

The Debtors appreciate your continued efforts in working under a tight timetable to permit the Debtors to consummate their Plan for the benefit of all stakeholders.

Regards,

**Patrick J. Brooks**  
**Squire, Sanders & Dempsey L.L.P.**

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